

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

KIMBERLY HUDSON,

Plaintiff,

v.

WESSON FOR SUPERVISOR 2020,

Defendant.

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Civil Action No. 4:20-cv-01039-O

ORDER


Before the Court is Plaintiff Kimberly Hudson's Motion for Default Judgment and Brief/Memorandum in Support (ECF Nos. 11–12), filed December 16, 2020.

For the Court to enter a default judgment, it must assess the merits of the plaintiff's claims and the sufficiency of the complaint, accepting all well-pleaded facts as true. *See Nishimatsu Constr. Co. v. Hous. Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975) (“[A] defendant's default does not in itself warrant the court in entering a default judgment. There must be a sufficient basis in the pleadings for the judgment entered.”); *see also Ford Motor Credit Company LLC v. Hancock*, 2015 WL 13118076 at *3 (N.D. Tex. Mar. 16, 2015) (“Given their default, Defendants have admitted the well-pleaded facts set forth in the complaint.”).

According to Plaintiff's Motion, all allegedly violative calls were made from February to March 2020. *See* Pl.'s App. ¶ 3, ECF No. 12-1. Recently, some courts have questioned the constitutionality of the entirety of the TCPA from 2015, when Congress amended to the TCPA to add the government-debt-collection exemption, to 2020, when the Supreme Court prospectively severed the unconstitutional exemption. *See Barr v. Am. Ass'n of Pol. Consultants, Inc.*, 140 S. Ct. 2335 (2020); *see, e.g., Creasy v. Charter Commc'ns, Inc.*, No. cv 20-1199, 2020 WL 5761117, at

*1 (E.D. La. Sept. 28, 2020); *cf. Trujillo v. Free Energy Sav. Co., LLC*, No. 5:19-cv-02072-MCS-SP, 2020 WL 8184336, at *1 (C.D. Cal. Dec. 21, 2020). In light of these developments, the Court **DIRECTS** Plaintiff to file supplemental briefing on the issue of whether February and March 2020 calls may support a viable claim for relief under the TCPA. That briefing is due on or before **March 26, 2021**.

SO ORDERED on this **8th day of March, 2021**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE